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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,853	12/11/2001	Gholam-Reza Zadno-Azizi	VGEN.001A	6673

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EXAMINER

WILLSE, DAVID H

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 05/21/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,853

Applicant(s)

ZADNO-AZIZI ET AL.

Examiner

Dave Willse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 22-66 is/are pending in the application.
- 4a) Of the above claim(s) 27-30, 44 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 22-26, 31-43 and 46-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7,11,12
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

In the Information Disclosure Statements, certain references were not considered because a concise explanation of the relevance (37 C.F.R. § 1.98(a)(3)) and/or a complete copy (37 C.F.R. § 1.98(a)(2)) was not presented. Some of the application serial numbers have been "lined out" in order to avoid duplicate listings.

Claims 27-30, 44, and 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 1-8, 11-14, 22-26, 40, 43, and 62 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Glick et al., WO 00/66037. Regarding claim 1 and others: page 15, lines 16-28; page 4, lines 12-14; etc. Regarding claims 11-14: page 4, lines 3-20. Regarding claims 22-26: Figure 6; page 18, lines 9-15; page 12, lines 9-13; etc. Regarding claim 40, the projections 50 (Figure 3) are viewed as biasers (page 16, lines 2-9). Regarding claim 43, the optics are removable in that the entire implant is removable.

Claims 9, 10, 15-17, 31-39, 46-60, and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glick et al., WO 00/66037. Regarding claims 9 and 10, the posterior optic having a refractive power between -10 and -5 diopters would have been obvious for a patient requiring an optical correction somewhat greater than the example described at page 4, lines 23-29, or would have been an obvious variation in view of the discussion at page 4, lines 9-20. Regarding claims 15-17, the range of thicknesses over accommodated and unaccommodated states would have been immediately obvious, if not inherent, from page 4, lines 12-14; the specified optical powers; and the materials for the optics (page 11, lines 21-31). Regarding claims 31-39, the particular radii of curvature and/or optical powers would have been within the realm of obvious variants in view of the wide range of prescriptions among patients (e.g., page 11, lines 33-35) and materials used for the optics and in order to optimize the amount of accommodative axial movement between optics for a particular patient. Regarding claims 46-60 and 63-66, official notice is taken that the particular coatings and surface treatments were well known in the art and would have been obvious to the ordinary practitioner, who would have been motivated by the known advantages of said coatings and treatments and by the intent of Glick et

al. to place the posterior lens against the capsular bag and to inhibit cell growth onto the implant (page 14, line 30, through page 15, line 8).

Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glick et al., WO 00/66037, in view of Hara et al., JP 2-126847A. Adding U-shaped springs or compression springs to the Glick et al. device would have been obvious from Figures 6 and 7 of Hara et al. in order to better establish an elastically stabilized, set position inside the capsular bag (English translation of Hara et al.: page 10, line 19, through page 11, line 5; page 11, line 20, through page 12, line 3; page 13, lines 4-10; page 14, lines 6-7), with the ordinary practitioner having been motivated by the similarities in operation of the two inventions.

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glick et al., WO 00/66037, in view of Young et al., US 6,258,123 B1. As seen in Figures 2-5 of Young et al., posteriorly extending perimeter walls were likewise well known in the art and would have been obvious from the advantages cited by Young et al. at column 6, lines 12-17, and elsewhere, with the ordinary practitioner having been motivated by the express desire of Glick et al. to inhibit cell growth.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- | | |
|------------------|---|
| US 4,240,163: | IOL coated with a medicament such as an anticoagulant, an anti-inflammatory, or an anti-complement agent. |
| US 4,655,770: | inert or passivated outer surface; |
| US 6,106,554: | cytotoxic agent on the surface; |
| US 6,454,802 B1: | polypeptides bound to surface to reduce cell migration. |


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is (703) 308-2903. The supervisor, Corrine McDermott, can be reached at (703) 308-2111. The receptionist's phone number is (703) 308-0858, and the main FAX numbers are (703) 305-3591, 3590.

dhw: D. Willse
May 15, 2003


DAVE WILLSE
PRIMARY EXAMINER
ART UNIT 3738